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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

DOE 1, DOE 2, and KASADORE
 RAMKISSOON, on Behalf of
 Themselves and all other Persons
 Similarly Situated,

Plaintiffs,

v.

AOL LLC,

Defendant.

CASE NO. C 06-5866 SBA

**[PROPOSED] ORDER GRANTING
 DEFENDANT AOL LLC'S MOTION TO
 DIMISS FOR IMPROPER VENUE**

Date: January 30, 2007

Time: 1 p.m.

Courtroom: 3

Judge: Hon. Sandra Brown Armstrong

The Court having considered Defendant AOL LLC's ("AOL's") Motion to Dismiss for Improper Venue and the entire record herein, and the Court having found that said motion is well grounded, the Court hereby GRANTS Defendant AOL LLC's motion to dismiss for improper venue pursuant to Rule 12(b)(3) of the Federal Rules of Civil Procedure. Plaintiffs' commencement of this action in the United States District Court for the Northern District of California breached the forum

PROPOSED ORDER

1 selection in the parties' written contract, which expressly requires that this controversy be
2 adjudicated in a court in Virginia. Under federal law, forum selection clauses are presumptively
3 valid and enforceable. *See Carnival Cruise Lines v. Shute*, 499 U.S. 585, 589-95 (1991); *M/S*
4 *Bremen v. Zapata Off-Shore Co.*, 407 U.S. 1, 10 (1972); *Manetti-Farrow, Inc. v. Gucci Am., Inc.*,
5 858 F.2d 509, 514 (9th Cir. 1988). Nothing in the record suggests that Plaintiffs have shouldered
6 their "heavy burden" of establishing grounds for rejecting enforcement of the provision. *See*
7 *Fireman's Fund Ins. Co. v. M.V. DSR Atlantic*, 131 F.3d 1336, 1338 (9th Cir. 1997).

8 As such, this Court finds the forum selection clause valid and concludes it must be enforced.
9 The Plaintiffs agreed the courts of Virginia have "exclusive jurisdiction" over any claims or disputes
10 with AOL, and venue in the Northern District of California is improper.

11 Plaintiffs' Complaint is hereby DISMISSED without prejudice to the refiling of their claims
12 in a state or federal court in Virginia.

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15 IT IS SO ORDERED.

16 Dated: 2-2-_____, 2007

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19 THE HONORABLE SAUNDRA BROWN ARMSTRONG
20 United States District Judge
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